

*Chapter 500 Stormwater Management rules:  
Draft Amendments 8/11/2011*

*All text in bold italics is descriptive or citation material intended to assist the reader, and is not part of the proposed amendments.*

● **Chapter 500 Section 10 Conditions of approval**

**10. Conditions of approval.** The following conditions of approval apply to an individual permit required pursuant to the Stormwater Management Law, 38 M.R.S.A. §420-D. For standard conditions of approval for a Site Law project, see 38 M.R.S.A. §372 (12) and Section 10-A below.

- A. Standard conditions of approval. Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions.
  - (1) Approval of variations from plans. The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S.A. §420-D(8) and is subject to penalties under 38 M.R.S.A. §349.
  - (2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
  - (3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
  - (4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.
  - (5) ~~Initiation of project within two years~~Time frame for approvals. If the construction or operation of the activity is not begun within ~~two~~four years, this approval shall lapse and the applicant shall reapply to the department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.

~~(6) Reexamination after five years. If the project is not completed within five years from the date of the granting of approval, the department may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances or requirements which may have occurred during the five year period.~~

(7) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the conditions by the developer, and the owner and each contractor and subcontractor has certified, on a form provided by the department, that the approval and conditions have been received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.

(8) Maintenance. The components of the stormwater management system must be adequately maintained to ensure that the system operates as designed, and as approved by the department.

(9) Recertification requirement. Within three months of the expiration of each five-year interval from the date of issuance of the permit, the permittee shall certify the following to the department.

- (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
- (b) All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the facilities.
- (c) The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained.

(10) Severability. The invalidity or unenforceability of any provision, or part thereof, of this permit shall not affect the remainder of the provision or any other provisions. This permit shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

B. Special conditions. The department may, as a term or condition of approval, establish any reasonable requirement to ensure that the proposed project will proceed in accordance with the Stormwater Management Law and rules. However, terms and conditions relating to compliance with the Stormwater Management Law may not substitute for or reduce the burden of proof of the developer to affirmatively demonstrate to the department that each of the standards of the Stormwater Management Law has been met.